

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

MAXUM INDEMNITY COMPANY,)

Plaintiff,)

v.)

COLLIERS INTERNATIONAL –)

ATLANTA, LLC; and,)

ALEXANDER DEITCH,)

Defendants.)

CIVIL ACTION NO.
1:18-CV-01236-WSD

**DEFENDANT COLLIERS INTERNATIONAL – ATLANTA, LLC’S
MOTION TO DISMISS FOR FAILURE
TO JOIN A PARTY UNDER RULE 19**

Defendant Colliers International – Atlanta, LLC (“Colliers”) files this Motion to Dismiss for Failure to Join a Party Under Rule 19 under Federal Rule of Civil Procedure 12(b)(7).

Plaintiff Maxum Indemnity Company (“Maxum”) filed this declaratory judgment action regarding insurance coverage for an underlying lawsuit filed by Mattress Firm, Inc. against the Defendants in Texas state court. Mattress Firm is a required party to this action pursuant to Fed.R.Civ.P. 19(a), as it has a real and

substantial interest in the insurance coverage issues present. Maxum must therefore join Mattress Firm as a party to this action. If Maxum does not join Mattress Firm, its Complaint for Declaratory Judgment should be dismissed.

WHEREFORE, Defendant Colliers International – Atlanta, LLC requests the Court to order Plaintiff Maxum Indemnity Company to join Mattress Firm, Inc. as a defendant in this action within thirty days. If the Plaintiff fails to do so, or if joinder is not feasible, Colliers respectfully requests that the Court dismiss the action pursuant to Fed.R.Civ.P. 41(b).

Respectfully submitted, this 18th day of April, 2018.

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CERTIFICATE OF SERVICE

I certify that this day, I electronically filed the foregoing with the clerk's office CM/ECF system, which will send email notification to the following counsel of record:

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Respectfully submitted, this 18th day of April, 2018.

s/Shattuck Ely
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